IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 27098 of 2005(A)

PETITIONER:

ROSAMMA JOSEPH, W/O.K.V.JOSEPH,
APPACHERIL HOUSE, NEAR RAILWAY STATION (R.M.S),
CHANGANACHERRY.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:

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1. THE BRANCH MANAGER, THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
CHANGANACHERRY BRANCH, CHANGANACHERRY.

2. THE SPECIAL DEPUTY TAHSILDAR,
(REVENUE RECOVERY), KERALA STATE FINANCIAL ENTERPRISES LTD., M.D.COMMERCIAL CENTRE,
KOTTAYAM.

3. THE MANAGING DIRECTOR,
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
HEAD OFFICE, THRISSUR.

BY ADV. SRI.M.L.SAJEEVAN, SC, KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF PETITIONER'S LETTER DATED 27.1.1998 BEFORE FIRST RESPONDENT.

EXT.P2 TRUE COPY OF PETITIONER'S LETTER DATED 6.3.2000 SUBMITTED BEFORE 1ST RESPONDENT.

EXT.P3 TRUE COPY OF 2ND RESPONDENT'S NOTICE ISSUED TO PETITIONER DURING APRIL 2005 TO RECOVER RS. 6,77,498/ FROM PETITIONER BY SELLING THE PROPERTY OF HER HUSBAND.

EXT.P4 TRUE COPY OF PETITIONER'S COMPLAINT DATED 30.4.2005 FORWARDED TO 3RD RESPONDENT.

EXT.P5 TRUE COPY OF PETITIONER'S REPRESENTATION SUBMITTED BEFORE THE HON'BLE REVENUE MINISTER UPON RECEIVING EXT.P3.

EXT.P6 TRUE COPY OF PETITIONER'S LETTER DATED 27.4.2007 FORWARDED TO 1ST REPSONDENT.

EXT.P7 TRUE COPY OF THE REGISTERED LETTER DATED 2.5.2007 OF 1ST RESPONDENT SENT TO PETITIONER.

EXT.P8 TRUE COPY OF PETITIONER'S OBJECTION DATED 19.5.2007 FORWARDED TO FIRST RESPONDENT BY COURIER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 27098 OF 2005

Dated this the 9th day of August, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSFE. Petitioner's grievance is that inspite of direction issued by this Court the statement of account furnished by KSFE does not contain details. I find force in the contention of the petitioner because even the statement filed in this Court is absolutely scanty to dispose of the petitioner's claim. It is the duty of the KSFE to give meticulous details of the petitioner's account for the petitioner to contest, if the interest charged is illegal. It is conceded that two chitties, one for Rs. 1 lakh and the other for Rs. 5 lakhs, were prized in favour of the petitioner. However, it is not stated whether the prize money is credited to the loan account then and there and if done as to when it was done. It was noticed by this Court in several cases that KSFE did not make payment of prized money on account of subscriber's failure to furnish security demanded by the Corporation. However, even if the subscriber is not entitled to payment of prize money for failure to furnish security, it is the duty of

the Corporation to adjust the prize money towards loan account because loan itself is against security of chitty under NCL scheme. Besides this it would be unfair to charge interest under the loan account after retaining substantial credit amount in the borrower's kury account. In the circumstances, W.P. is disposed of directing credit of entire prize money on the date on which it was payable to the petitioner, had security been furnished, and reverse the entire interest charged in loan account on the said amount from that date onwards. If any balance is outstanding in the loan account, Corporation is free to charge interest. Similarly if any credit was given towards kury subscriptions from the prize money such adjustments should also be reversed and Corporation should charge interest on subscriptions defaulted. A detailed statement in this manner should be furnished to the petitioner within a period of two weeks from the date of production of a copy of this judgment by the petitioner. Petitioner is given further time of two weeks thereafter to settle liability failing which balance will be recovered from the petitioner through revenue recovery proceedings.

(C.N.RAMACHANDRAN NAIR)
Judge